

JUDGE KOELTL

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

ALEX WRIGHT, an individual,

Plaintiff,

v.

NEW MODA, LLC,

Defendant.

)  
)  
)  
)  
)  
)

17 CV 9737

Civil Action No.

JURY TRIAL DEMANDED

**COMPLAINT FOR TRADEMARK INFRINGEMENT,  
UNFAIR COMPETITION AND RELATED CLAIMS**

Plaintiff, Alex Wright, alleges his complaint against Defendant, New Moda, LLC as follows:

**NATURE OF THE ACTION**

1. This action arises from Defendant's infringement of Plaintiff's "ownership" and exclusive "use" rights in the DEFEND BROOKLYN® and design mark, in conjunction with clothing and other related goods. Despite Plaintiff being the registered owner of the trademark DEFEND BROOKLYN® and its distinctive and signature design logo and offering various clothing items under such brand name and design, the Defendant has infringed Plaintiff's rights in the aforementioned marks by selling, offering for sale, promoting and advertising clothing items under Plaintiff's trademarks. Plaintiff has already experienced "actual confusion" in connection with this matter and is likely to continue to experience confusion as to the affiliation or connection between the Defendant and Plaintiff resulting in the unjust enrichment of Defendant by using Plaintiff's registered trademarks.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 15 U.S.C. §1051 *et seq.*, 15 U.S.C. Sections 1114-1116; under Section 43(a) of the Trademark Act, 15 U.S.C. §1125(a) and Section 43(c) of the Trademark Act, 15 U.S.C. §1125(c).

3. This Court has personal jurisdiction over the Defendant because Defendant engages in business activities in, and directed to the State of New York within this judicial district and because Defendant has committed tortious acts aimed at and causing harm within the State of New York and this judicial district.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c) because it is where Plaintiff resides and the Defendant transact business in this district, and because a substantial portion of the events giving rise to the asserted claims have occurred, and continue to occur, within this district. Furthermore, the damage to Plaintiff and its intellectual property described herein continues to occur in this judicial district.

**THE PARTIES**

5. Plaintiff, Alex Wright is an individual with an address at 193 Front Street, New York, NY 10038.

6. Upon information and belief, Defendant New Moda, LLC is a California Limited Liability Company with a principal place of business at 1950 Naomi Avenue, Los Angeles, CA 90011.

**FACTS**

7. Plaintiff Alex Wright owns and operates a clothing business that has been selling headwear, t-shirts, sweaters, hooded sweatshirts, jackets and other clothing items under the DEFEND BROOKLN® brand name and stylized logo depicted in the image below:



8. Plaintiff sells, and promotes the sale of his clothing via his website [www.defendbrooklyn.com](http://www.defendbrooklyn.com).

9. Plaintiff also operates a flagship clothing boutique for his DEFEND BROOKLYN® brand at the South Street Seaport in New York City.

10. The DEFEND BROOKLYN® brand and clothing business was founded in 1996.

11. The DEFEND BROOKLYN® brand is famous and has appeared in movies and worn and endorsed by celebrities and musicians.

12. Plaintiff is the current registered owner of United States Trademark Registration No. 3,004,096 for the mark DEFEND BROOKLYN®. (See Exhibit A).

13. Plaintiff is the current registered owner of United States Trademark Registration No. 4,617,558 for the mark DEFEND BROOKLYN®. (See Exhibit B).

14. Plaintiff is the current registered owner of United States Trademark Registration No. 4,755,821 for the mark DEFEND BROOKLYN®. (See Exhibit C).

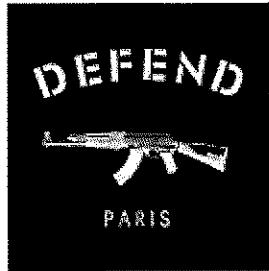
15. Plaintiff is the owner and applicant of United States Trademark Serial Application No. 86/134,705 for the mark DEFEND PARIS that was filed with the United States Patent and Trademark Office in 2013. (See Exhibit D).

16. Plaintiff is informed and believes and thereon alleges that Defendant is marketing, promoting, selling and offering for sale various t-shirts, caps and other clothing items bearing the DEFEND PARIS™ mark. Defendant is using an identical design lay out depicting the gun image and Plaintiff's slanted font layout depicted in the picture below as to infringe and palm off of the goodwill and reputation that Plaintiff has established in his DEFEND BROOKLYN® properties used in connection with his clothing business.

**Plaintiff's DEFEND BROOKLYN design**



**Defendant's DEFEND PARIS design**



17. Defendants are promoting, advertising, selling and offering for sale clothing items via Defendants' website [www.defend-paris.com](http://www.defend-paris.com). (**See Exhibit E**).

18. Defendants are aware of Plaintiff's business and the long standing rights in the DEFEND BROOKLYN® brand and signature logo image that is used in connection with Plaintiff's clothing business.

19. Defendants use of Plaintiff's DEFEND brand and identical logo in connection with clothing has already caused and will continue to cause confusion as to the source or affiliation of the source of the clothing related goods under the DEFEND BROOKLYN® and/or DEFEND PARIS™ marks.

**FIRST CAUSE OF ACTION**  
**TRADEMARK INFRINGEMENT (15 U.S.C. §§ 1114-1116)**

20. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 19 of this Complaint.

21. The use in commerce by Defendants of an identical and slightly identical version of Plaintiff's registered trademark is likely to cause confusion, mistake and deception among members of the public and in trade as to the source, origin, or sponsorship of defendants' goods and services. Such use by defendant constitutes a clear and direct infringement of Plaintiff's rights in and to Plaintiff's registered trademark, and has resulted in injury and damage to Plaintiff that will continue if Defendants are not ordered to cease all use of the DEFEND PARIS mark.

**SECOND CAUSE OF ACTION**  
**UNFAIR COMPETITION & FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))**

22. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 21 of this Complaint.

23. Plaintiff has the exclusive right to market, brand and provide clothing related goods using the DEFEND BROOKLYN® mark or any confusingly similar variation in connections with clothing and related goods.

24. Defendants by reason of the aforementioned acts, have falsely described, represented and designated the origin of its goods and services. Defendants' activities already have confused the public into believing that Defendants and Plaintiff's clothing goods and accessories come from one and the same source, and Defendants continued activities are likely to create further confusion and deceive the public concerning the source of the goods/services.

25. Defendants have unfairly profited from the actions alleged herein and will continue to unfairly profit and become unjustly enriched unless and until such conduct is enjoined by this Court.

26. By reason of Defendants willful acts conducted in conscious disregard for Plaintiff's rights, Plaintiff is entitled to treble damages under 15 U.S.C. § 1117(a).

### **THIRD CAUSE OF ACTION**

#### **COMMON LAW TRADEMARK INFRINGEMENT & UNFAIR COMPETITION**

27. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 26 of this Complaint.

28. Defendants conduct constitutes deception by which Defendants goods will be palmed off as those of Plaintiff. Such conduct constitutes trademark infringement and unfair competition in violation of the laws of the State of New York.

29. Defendants unauthorized use of Plaintiff's DEFEND BROOKLYN® mark is likely to continue to cause further confusion to the public as to the clothing goods and accessories of the respective parties.

30. By reason of the foregoing, Defendants have infringed and continue to infringe on Plaintiff's common law rights in the DEFEND BROOKLYN® marks and Defendants have become unjustly enriched by such acts of infringement.

31. Defendants unlawful conduct has been and will continue to be willful or willfully blind to Plaintiff's rights, as Defendant has reason to know of Plaintiff's rights.

### **FOURTH CAUSE OF ACTION**

#### **UNJUST ENRICHMENT**

32. Plaintiff repeats and realleges each and every allegation contained in Paragraphs 1 through 31 of this Complaint.

33. Defendants have unjustly retained profits from the sale of clothing goods and accessories bearing Plaintiff's DEFEND BROOKLYN® design mark and image.

34. Defendants actions constitute unjust enrichment.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays for relief as follows:

1. Entry of an order and judgment requiring that Defendant, its subsidiaries, officers, agents, servants, employees, owners, and representatives, and all other persons or entities in active concert or participation with them, be preliminarily and, thereafter, permanently enjoined and restrained from (a) using in any manner the trade name, trademark, domain name or other indicia or origin, including in whole or part the term DEFEND BROOKLYN, or any colorable imitation thereof; (b) advertising, operating a website, using business stationary or offering any goods or services using the trade name, trademark, domain name, URL, or any other indicia of origin including in whole or part the terms DEFEND BROOKLYN® or DEFEND PARIS™, or any colorable imitation thereof; (c) otherwise engaging in any acts of unfair competition and infringement which tend to injure Plaintiff's rights in the DEFEND BROOKLYN® mark.

2. That Defendant be required to account to Plaintiff for any and all profits derived by it, and to compensate Plaintiff for all the damages sustained by reason of the acts complained of herein, and that the damages herein be trebled pursuant to the Trademark Act.

3. That Defendant be ordered to deliver up for destruction any and all infringing materials bearing the DEFEND PARIS™ mark, and any colorable imitation thereof, in whole or part.

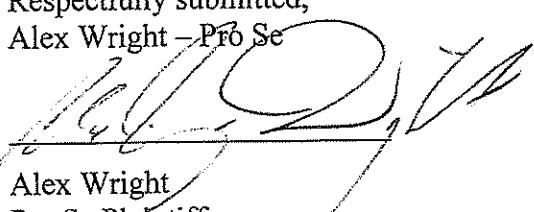
4. That Plaintiff be awarded punitive and treble damages for Defendant's egregious and willful acts in disregard for Plaintiff's exclusive use rights in his federally registered trademarks in connection with clothing.
5. The Defendant be liable for damages in the amount of \$5,000,000.00.
6. That Defendant be required to place advertisements or send notifications to past and present customers that it improperly has been using the DEFEND PARIS® mark.
7. That Plaintiff be awarded the cost and disbursements of this action.
8. That Plaintiff have such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury as to all issues.

Dated: December 12, 2017  
New York, New York

Respectfully submitted,  
Alex Wright - Pro Se



Alex Wright  
Pro Se Plaintiff  
138 Front Street  
New York, New York 10038  
(917) 577-2494

## **EXHIBIT A**

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

Reg. No. 3,004,096

United States Patent and Trademark Office

Registered Oct. 4, 2005

TRADEMARK  
PRINCIPAL REGISTER

DEFEND BROOKLYN

REEVES, DAVID (UNITED STATES INDIVI-  
DUAL)  
1456 ECHO PARK AVENUE  
LOS ANGELES, CA 90026

FOR: CLOTHING, NAMELY, TEE SHIRTS,  
SHIRTS, SHORTS, PANTS, SWIM SUITS, SOCKS,  
FOOTWEAR, HATS, CAPS, BLOUSES, SWEATERS,  
UNDERWEAR, VESTS, TANK TOPS, SKIRTS,  
SWEAT SHIRTS AND SWEAT PANTS , IN CLASS  
25 (U.S. CLS. 22 AND 39).

FIRST USE 3-30-1996; IN COMMERCE 8-30-2001.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "BROOKLYN", APART FROM  
THE MARK AS SHOWN.

SER. NO. 78-430,095, FILED 6-4-2004.

JEFFERY COWARD, EXAMINING ATTORNEY

United States of America  
United States Patent and Trademark Office



**Reg. No. 4,617,558**

3XN (NEW YORK LIMITED LIABILITY COMPANY)  
345 SOUTHENDE AVANUE  
NEW YORK, NY 10280

**Registered Oct. 7, 2014**

**Int. Cl.: 25**

FOR: CLOTHING, NAMELY, TOPS, BOTTOMS, TEE SHIRTS, SHIRTS, SHORTS, PANTS,  
SWIM SUITS, SOCKS, FOOTWEAR, HATS, CAPS, BLOUSES, SWEATERS, UNDERWEAR,  
VESTS, TANK TOPS, SKIRTS, SWEAT SHIRTS AND SWEAT PANTS, IN CLASS 25 (U.S.  
CLS. 22 AND 39).

**TRADEMARK**

**PRINCIPAL REGISTER**

FIRST USE 3-30-1996; IN COMMERCE 8-30-2001.

OWNER OF U.S. REG. NO. 3,004,096.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BROOKLYN", APART FROM  
THE MARK AS SHOWN.

THE MARK CONSISTS OF THE LITERAL ELEMENTS "DEFEND BROOKLYN" WRITTEN  
IN A STYLIZED FORM WHEREIN THE LETTER "DEFEND" IS AT THE TOP IN CURVED  
FORMAT, LETTER "BROOKLYN" IS AT THE BOTTOM AND BETWEEN THE LITERAL  
ELEMENT RIFLE IMAGE IS PLACED.

SER. NO. 86-221,288, FILED 3-14-2014.

DORITT L. CARROLL, EXAMINING ATTORNEY



*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office

**EXHIBIT B**

**EXHIBIT C**

# United States of America

## United States Patent and Trademark Office



**Reg. No. 4,755,821**

DFBK, LLC (NEW YORK LIMITED LIABILITY COMPANY)  
780 THIRD AVENUE, 7TH FL

**Registered June 16, 2015**

NEW YORK, NY 10017

**Int. Cl.: 25**

FOR: ANTI-SWEAT UNDERCLOTHING; ANTI-SWEAT UNDERWEAR; APPAREL FOR DANCERS, NAMELY, TEE SHIRTS, SWEATSHIRTS, PANTS, LEGGINGS, SHORTS AND JACKETS; BLOUSES; CAMOUFLAGE JACKETS; CAMOUFLAGE SHIRTS; CAPS; CAPS WITH VISORS; CARDIGANS; CREW NECK SWEATERS; CREW NECKS; DENIM JACKETS; DO RAGS FOR USE AS CAPS; EAR MUFFS; EAR WARMERS; EARBANDS; FIGHT SHORTS FOR MIXED MARTIAL ARTS OR GRAPPLING; FLEECE BOTTOMS; FLEECE PULLOVERS; FLEECE SHORTS; FLEECE TOPS; FLEECE VESTS; FLIP FLOPS; FOOTWEAR; GLOVES FOR APPAREL; GRAPHIC T-SHIRTS; GYM PANIS; GYM SHORTS; GYM SUITS; HATS; HEAD WEAR; HEADBANDS AGAINST SWEATING; HEADWEAR; HEAVY COATS; HEAVY JACKETS; HOODED PULLOVERS; HOODED SWEAT SHIRTS; HOODED SWEATSHIRTS; HOODED SWEATSHIRTS FOR MEN AND WOMEN; JACKETS; JERSEYS; JOGGING OUTFITS; KNIT SHIRTS; KNIT TOPS; MEN'S AND WOMEN'S JACKETS, COATS, TROUSERS, VESTS; PANTS; POLO SHIRTS; SHIRTS; SHIRTS AND SHORT-SLEEVED SHIRTS; SHOES; SHORT-SLEEVED SHIRTS; SKIRTS; SKULL CAPS; SKULLIES; SLEEVELESS JERSEYS; SOCKS; SPORT SHIRTS; SPORTS CAPS AND HATS; SPORTS JERSEYS; SWEAT JACKETS; SWEAT PANTS; SWEAT SHIRTS; SWEAT SHORTS; SWEATERS; SWEATPANTS; SWEATSHIRTS; SWEATSUITS; SWIMSUITS; T-SHIRTS; T-SHIRTS FOR MEN AND WOMEN; TANK TOPS; TEE SHIRTS; TRACK JACKETS; TRACK PANTS; TRACK SUITS; UNDERCLOTHING; UNDERGARMENTS; UNIFORMS; VESTS; WARM UP OUTFITS; WARM UP SUITS; WIND-JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

FIRST USE 11-5-2013; IN COMMERCE 7-7-2014.

OWNER OF U.S. REG. NOS. 3,004,096 AND 4,617,558.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BROOKLYN", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORDING "DEFEND BROOKLYN" INSIDE A SHIELD WITH A HORIZONTAL LINE SEPARATING "DEFEND" AND "BROOKLYN".

SER. NO. 86-437,307, FILED 10-28-2014.

**EXHIBIT D**



United States Patent and Trademark Office

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# DEFEND PARIS

Word Mark	DEFEND PARIS
Goods and Services	IC 025. US 022 039. G & S: Clothing namely t-shirts, shirts, tops, sweaters, sweatshirts, hooded sweatshirts; coats, jerseys, jackets; bottoms, pants, trousers, jeans, shorts, sweatpants, pajamas; dresses; skirts; blouses; underwear; swimwear; headwear; footwear; belts, ties, gloves, socks
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86134705
Filing Date	December 4, 2013
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) WRIGHT, ALEX INDIVIDUAL UNITED STATES 70-50 OLCOTT STREET FOREST HILLS NEW YORK 11375
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	John Buckman
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PARIS" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK

**EXHIBIT E**

# CAPS & ACCESSORIES

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## SHOPPING OPTIONS

## CAPS & ACCESSORIES

### CATEGORY

- CAP
- WORKOUT MAT
- BAGS
- FACE MASK

### GENDER

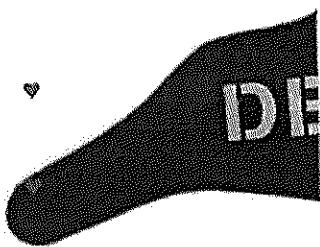
- MEN
- WOMEN

### SIZE

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- 99
- 100

### COLOR

- ORANGE (12)
- NAVY (13)
- TAN (23)
- CAMOUFLAGE TAN (17)
- ROSE (11)



DEFEND PARIS FOUC MESH

€30.00



PARIS CAP

€39.00

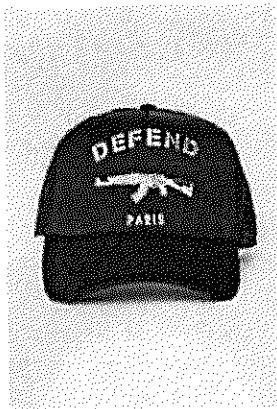


PARIS CAP WHITE

€39.00

### COMPARE PRODUCTS

You have no items to compare.



TRACKER CAP

€35.00



INLOCK PARIS

€40.00



BACK CAP

€39.00



CO CAP WHITE

€39.00

## CAPS &amp; ACCESSORIES



TRUCK CO

€40.00

PARIS CAP

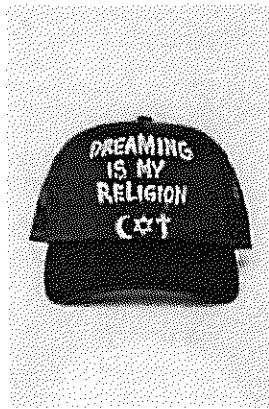
€45.00

ROTATION CAP PARIS

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TRUCK DEFEND

€40.00

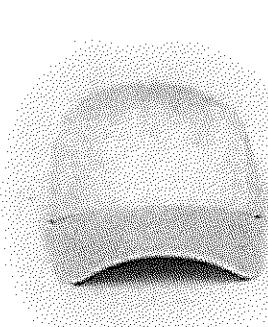


RELIGION CAP

€35.00



CAPS & ACCESSORIES



ROTATION CAP CANVAS

€40.00

ROTATION CAP PINK

€40.00

ROTATION CAP

€40.00



WOODY CAP

€50.00

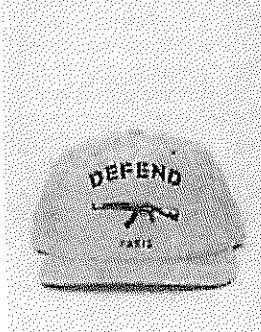
GOLDY CAP

€40.00



BASIC CAP GRIS

€40.00



YAU CAP

€45.00

## CAPS &amp; ACCESSORIES



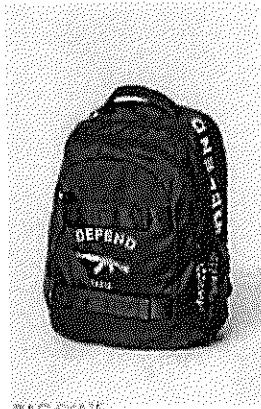
SNOW

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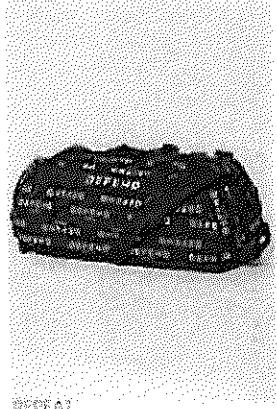
FLEXY

€80.00



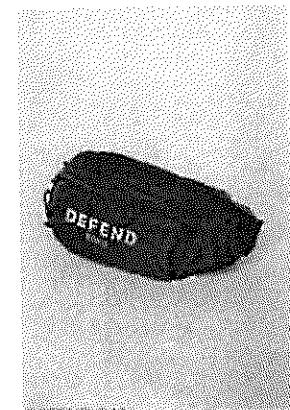
BAG STATE

€70.00



REPEAT

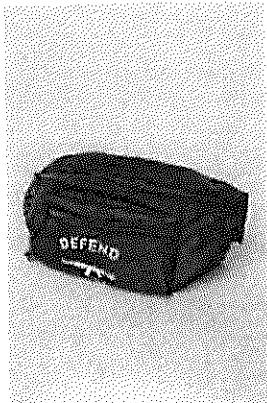
€90.00



DEFEND BAG

€30.00

## CAPS &amp; ACCESSORIES



PARIS BAG

€30.00



PARIS BONNET

€25.00



PARIS BONNET KAG

€25.00



PATCH BONNET

€25.00



CC BONNET

€25.00



GRAY BONNET

€30.00



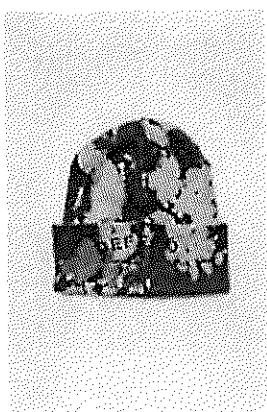
GRAY GOLD BONNET

€30.00

CAPS & ACCESSORIES



BONY PARK  
€30.00



BONY T&D  
€35.00



BONY RELIGION  
€30.00



BONY PARKI  
€30.00

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KALASH'

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## SHOPPING OPTIONS

## KALASH'

## CATEGORY

HOMME  
FEMME

## GENRE

MEN  
WOMEN

## SIZE

TU  
XS  
S  
M  
L  
XL  
XXL

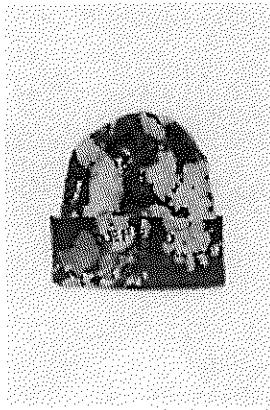
TAC CAP

€45.00



PRIMO

€60.00



BONNIE

€35.00

## COLOR

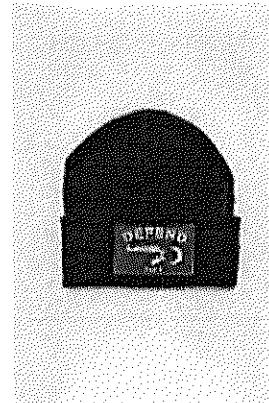
BLACK BLACK (5)  
KAKI KAKI (5)  
ORANGE (7)  
BLANC (11)  
NOIR (13)  
GRIS (1)  
TAIGA (1)  
CAMOUFLAGE TAN (2)  
CAMOUFLAGE NOIR (1)  
CAMOUFLAGE BLANC (1)

## COMPARE PRODUCTS

You have no items to compare.

BONNIE RELIGION

€30.00



BONNIE PARIS

€30.00



BONNIE PARIS

€30.00



BONNIE GOLD

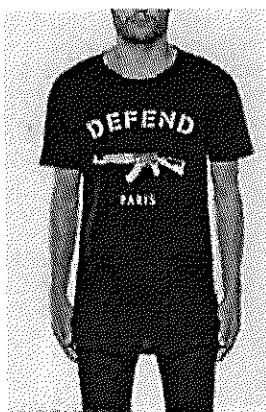
€30.00

KALASH



BIVY

€30.00



UNCONTROLL

€45.00

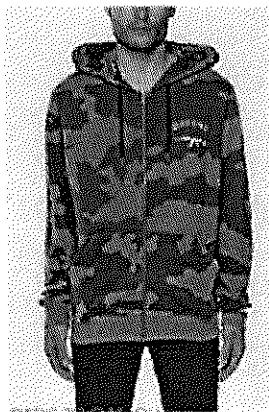
□□□□



LAGO

€45.00

□□□□



PARIS ZIP CHOU

€89.00

□□□□



€50.00

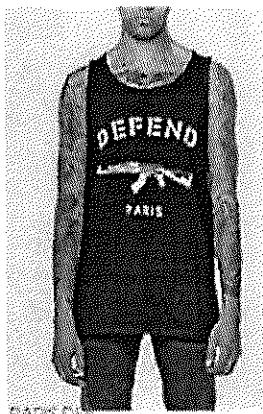
□□

KALASH'



PANTS BASIC

€35.00



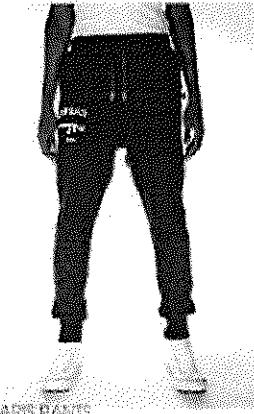
PANTS BASIC

€32.00



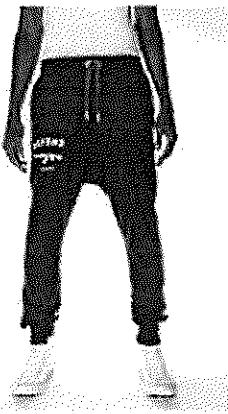
PANTS TEE CLASSIC

€49.00



PANTS PANTS

€65.00



SWEAT PANTS X DEFEND U...

€85.00 Picture da stock

KALASH



PARIS BONNET  
€25.00 plus CH. taxes



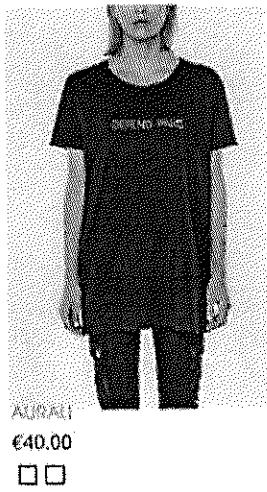
PARIS BONNET KAN  
€25.00



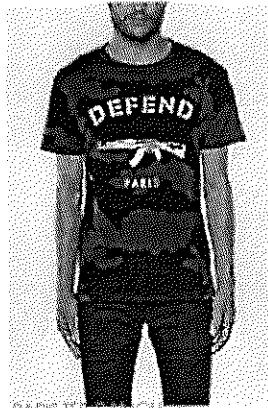
PARIS CAP  
€39.00



PARIS CAP LIGHT  
€39.00



ARMATI  
€40.00  
□ □  
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PARIS TEE CALASH  
€45.00  
□ □ □ □ □

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